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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,909	01/25/2002	Thomas S. Camino	1672-0099 (DEP-688)	3044

7590 05/14/2003

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EXAMINER

PRIDDY, MICHAEL B

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 05/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,909

Applicant(s)

CAMINO ET AL.

Examiner

Michael B Priddy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3,5,6,8-10 and 12 is/are rejected.
- 7) ☐ Claim(s) 2,4,7 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The serial number of the application listed as provisional is incorrect. The Examiner believes the Applicant has intended to refer to a provisional application filed on 12/23/1997 having the serial number 60/068,660 as opposed to 60/068,060.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3, 5, 6, 8-10 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Schönhöffer (DE 19622827). Schönhöffer teaches a spacer assembly comprising a spacer 2 formed to include an upper spacer end and a lower spacer end and a spacer side wall 5" extending between the upper spacer end and the lower spacer end, and at least one end cap 1 coupled to at least one of the upper spacer end and the lower spacer end, each of the at least one end caps 1 including an inner end facing the spacer, and outer end 11 having a serrated surface and a cap side wall 5'

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extending between the inner and outer 11 ends and engaging the spacer side wall 5" to provide a mechanical connection between the at least one cap and the spacer, wherein the serrated surface includes a number of peaks 12' and a number of valleys (between the peaks 12'), and wherein when the at least one end cap 1 is connected to the spacer, wherein the number of peaks 12' are positioned at a vertical height either above the upper spacer end or below the lower spacer end.

Allowable Subject Matter

Claims 2, 4, 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: none of the prior art of record teaches or fairly suggests a spacer assembly as set forth in claims 2, 4, 7 or 11 wherein the cap side wall converges from the outer end toward the inner end and wherein the upper spacer end has a number of detents defined therein, the at least one end cap further includes a number of projections, and the number of projections are respectively positioned within the number of detents when the at least one end cap is connected to the spacer. The closest prior art reference, DE 19622827, does not teach these structural features and modifying the invention of '827 such that it included these features would destroy its intended mode of operation.

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Conclusion

Any inquiry concerning this communication from the examiner should be directed to Michael B. Priddy whose telephone number is (703) 308-8620. The examiner can normally be reached on Mon.-Fri. 8 a.m. - 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Michael B. Priddy

Michael B. Priddy
May 12, 2003

Kevin Shaver
KEVIN SHAVER 5/12/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700